



· INSTITUTE · OF · HISTORIC ·  
BUILDING · CONSERVATION

*Making Heritage Work*

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Dear Sir

**CONSULTATION ON THE PRE-APPLICATION CONSULTATION AND APPLICATION PROCEDURES FOR NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS**

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

Thank you for inviting us to participate in this consultation.

The Institute is concerned that the procedures are inadequate for the proper consideration of impacts on historic assets. Whilst the numbers of historic assets nationally are large, the number which may be affected by any one proposal will not be. Any impacts on historic assets will have to form part of an Environmental Impact Assessment (EIA). It seems to us reasonable, therefore, that a proper assessment of potential impacts should be required as part of the pre-application procedure.

We think that the interests of proper public engagement and consideration of cultural issues require adequate information to be produced by the applicants at all the stages of the process. In particular this should include information on real and potential impacts to all statutorily protected historic assets.

The Institute also feels that public engagement would be more constructive if the reasoning behind design and development decisions were required to be justified in a Design and Access statement.

We think that the transitional arrangements are inadequate as they will lead to some proposals being granted consent without the protections built into either the old or the new regimes.

Our comments on some of the formal questions posed by the consultation are set out below.

### **Regulations on applications and procedure**

**Q1: Do you agree with the list of statutory consultees? Are there any others which you feel should be included?**

A1: No. Historic Scotland, Architecture+Design Scotland and the Design Commission for Wales should be included.

**Q2: Do you agree with the set of information we are requiring within the notices to publicise proposed applications and applications that have been accepted by the Commission, and notify prescribed persons of accepted applications? Should anything else be included? Or should anything be omitted, for example on the grounds of being too burdensome?**

A2: No. The requirements should include all statutorily designated historic assets: including World Heritage sites, Scheduled Monuments, Listed Buildings, registered historic, parks and gardens, battlefields and other historic landscapes and conservation areas.

**Q3: Is the information required to be stated on the application form appropriate? If not, what omissions or additions would you make? Are the descriptions in the form's guidance note clear and sufficient?**

A3: No. Section 18 of the form should include all statutorily designated historic assets: including World Heritage sites, Scheduled Monuments, Listed Buildings, registered historic, parks and gardens, battlefields and other historic landscapes and conservation areas.

**Q4: Are there any other plans, documents or information which should be required to accompany the application, including for specific types of infrastructure? Should anything be omitted, for example on the grounds of being too burdensome? Should anything in the existing lists be described in a different way?**

A4: The Report required in Section 18 of the form should briefly describe the likely impacts of the proposals on all statutorily designated historic assets: including World Heritage sites, Scheduled Monuments, Listed Buildings, registered historic, parks and gardens, battlefields and other historic landscapes and conservation areas.

There should be a requirement for a Design and Access Statement in line with the requirement for applications submitted to Local Planning Authorities under the TCPA 1990. This would help the public to understand the reasoning behind design decisions and thus reduce requests for more extensive information.

**Q5: How feasible and appropriate is it for application documents to be made available for consultation, and submitted to the Commission, in electronic formats, in addition to paper copies?**

A5: It is essential that information should be made available electronically. The whole thrust of the Government's proposals for the delivery of public information lies in this direction and it would be absurd for the Regulations not to provide for it. Wherever possible documents should be available for download. Where file sizes are too large for this, documents should be available on DVD, in libraries and information points and by post.

**Q6: Do you agree that applicants should not be required to re-submit information on the persons and organisations which have been notified of an accepted application?**

A6: The Institute is concerned that the procedures should ensure that all required consultation and notification takes place. Not requiring a re-submission is likely to result in unverified assertions about notifications being made.

### **Transitional issues**

**Q7: Do you agree that consultation exercises which were commenced prior to the entry into force of new standards should benefit from transitional provisions?**

A7: No. This will inevitably lead to some proposals not being subject to an adequate standard of scrutiny. Proposals under the standards of existing legislation are subject to testing by public inquiry. More rigorous standards should apply to all applications that will not be tested in this way. Such will apply to new proposals after commencement of the Regulations. Transitional proposals will be subject to neither. This is profoundly unsatisfactory.

**Q8: Do you agree that transitional provisions should be made, that could, in the circumstances described, deem a consultation exercise commenced prior to October 2009 to have met the new requirements?**

A8: No. This will inevitably lead to some proposals not being subject to an adequate standard of scrutiny. Proposals under the standards of existing legislation are subject to testing by public inquiry. More rigorous standards should apply to all applications that will not be tested in this way. Such will apply to new proposals after commencement of the Regulations. Transitional proposals will be subject to neither. This is profoundly unsatisfactory.

**Q9: Do you agree with the proposed tests which the consultation exercise must meet before being deemed to meet the new requirements?**

A9: No. The standards of consultation required under existing legislation are not rigorous enough and the time-scales are too lenient. The date horizons should be 1 October 2008 and 1 October 2010 as a maximum range.

### **Guidance on pre-application consultation**

**Q11: Are the principles outlined in the guidance clear, if not please give your views as to how this can be improved?**

A11: No. Pre-application consultation will have little meaning if it does not promote examination of issues which may have an impact on acceptability of the proposal. The guidance need to be clear that anyone may request basic information on topics that will be submitted at application stage. The requirement for a draft Design and Access Statement at the pre-application stage might be one way of providing the reasoning behind the proposal and thus obviate the general need for too much raw data.

## **Model provisions and the Planning Act**

**Q14: Do you agree that separate sets of model provisions should be made for each infrastructure type, in the final statutory instrument?**

A14: The Institute favours this approach. We consider that stand-alone documents are generally easier to use than composite ones.

**Q15: Do the draft model provisions capture all the types of provision which are needed for energy, highways and water projects? If not, what additional provisions may be needed?**

A15: The Institute considers that there should be provisions for the recording and preservation of any archaeological finds and the recording of any historic assets (listed buildings etc.) that are to be removed or otherwise affected by the development.

## **Regulations on Environmental Impact Assessment**

**Q20: If the Commission grants a development consent order it may also include requirements within that order. The EIA regulations do not currently provide for the means of ensuring that where necessary those requirements are subject to an EIA. It will be necessary to provide for this and your views are invited as to how this can best be achieved.**

A20: The Institute suggests that the possibility of requirements is likely to emerge relatively early in the assessment process and that addenda to EIAs might be requested as soon as this occurs.

**Q21: Do you agree that the approach we propose to take with the two Schedules is the correct approach?**

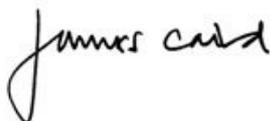
A21: The requirements should be no less onerous than those in the existing EIA Regulations.

## **Guidance on associated development**

**Q25: Are the principles outlined in the guidance clear, if not please give your views as to how this can be improved?**

A25: The Institute thinks the draft Guidance is relatively clear, but would wish to emphasise its view that all aspects of every proposal should be subject to the full requirements of EIA.

Yours faithfully



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